

DIVISION III

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
OLLY NEAL, Judge

CA05-1416

OCTOBER 25, 2006

VICKIE LYNN GROVES  
APPELLANT

AN APPEAL FROM THE CLEVELAND  
COUNTY CIRCUIT COURT [JV04-5-5]

v.

ARKANSAS DEPARTMENT OF  
HEALTH AND HUMAN SERVICES  
APPELLEE

HONORABLE LARRY W. CHANDLER,  
JUDGE

AFFIRMED

Appellant Vickie Groves appeals from an order of the Cleveland County Circuit Court that terminated her parental rights as to her minor child, A.G. For reversal, appellant argues that the trial court erred in terminating her parental rights because grounds to terminate her rights were not proven by clear and convincing evidence. We affirm.

A.G. went into the custody of the Arkansas Department of Human Services (ADHS) on February 24, 2004, after appellant and her husband, Jessie Groves, were arrested. It came to the attention of ADHS that appellant was incarcerated and that A.G. was being cared for by her maternal grandmother and aunt, both of whom suffered from mental illness. There were also environmental concerns. The ADHS worker investigating the allegations found problems with the house's condition including foul odor and heavy roach infestation. The worker "determined that it was not in [A.G.'s] best interest to remain in the home." At the time A.G. was placed in foster care, she was

one month old. A.G. has been out of appellant's custody since the initial removal.

On May 10, 2005, the fifteen-month review hearing took place. At this hearing, the court found that it was in A.G.'s best interest that appellant's parental rights be terminated; that the time frame given by testimony was not consistent with A.G.'s developmental needs; and that it was not in A.G.'s best interest to be subjected to "being torn from the family that has raised her and the only family she knows and placed somewhere else." ADHS was directed to file a petition to terminate appellant's parental rights.

The August 9, 2005, termination hearing was continued to September 13, 2005. At this hearing, Felicia Cobb, appellant's case worker, recommended termination of appellant's parental rights. She testified that A.G. had been out of appellant's home since February 24, 2004; that appellant had not been able to correct all the problems that caused A.G. to be removed; that appellant had not reached the point she needed to in order to be able to properly take care of A.G.; and that A.G. could be adopted. Patricia Hamilton, appellant's trainer at Rainbow Industries, testified that appellant "does not work completely unsupervised." Dorene Mosier, residential supervisor at the School of Hope, testified "we need to have [appellant] here for about a year to really evaluate her and make sure she is gaining skills and improving in all areas."

Appellant testified that she picks A.G. up when she falls; that she purchases A.G. personal items when she comes to visit; and that she bathes, feeds, and dresses A.G. when she has her.

CASA volunteer Jean Barton testified that she witnessed appellant's and A.G.'s visitation on two occasions and that on one occasion,

[A.G.] was standing on a rocking chair rocking it back and forth and she lost her balance and went flying head first out of the chair. Vickie just let her do it. Another young staff lady that was there caught [A.G.]. Later on, [A.G.] hit her head on the plate glass door and it was not

a major incident, but [A.G.] cried. Vickie didn't do anything, other people scooped her up, loved on her, consoled her.

She further stated that she recommended termination of appellant's parental rights; that she had the sense that appellant was not addressing her parenting skills as a mother; and that even though appellant loved A.G., that was not enough "to see a child through life."

Jessie Groves testified that he was not sure that appellant was capable of taking care of A.G.; and that appellant's parental rights should be terminated so that A.G. could be adopted. Following the termination hearing, the court found that A.G.'s parents parental rights should be terminated. This appeal followed.<sup>1</sup>

Our standard of review in termination-of-parental-rights cases is well-settled. When the issue is one involving the termination of parental rights, there is a heavy burden placed upon the party seeking to terminate the relationship. *Cobbs v. Ark. Dep't of Human Servs.*, 87 Ark. App. 188, 189 S.W.3d 487 (2004). Termination of parental rights is an extreme remedy and in derogation of the natural rights of the parents. *Chase v. Ark. Dep't of Human Servs.*, 86 Ark. App. 237, 184 S.W.3d 453 (2004). Parental rights, however, will not be enforced to the detriment or destruction of the health and well-being of the child. *Id.* Pursuant to Ark. Code Ann. § 9-27-341(b)(3) (Supp. 2005), the facts warranting termination of parental rights must be proven by clear and convincing evidence. Clear and convincing evidence is that degree of proof that will produce in the fact-finder a firm conviction regarding the allegation sought to be established. *Wade v. Ark. Dep't of Human Servs.*, 337 Ark. 353, 990 S.W.2d 509 (1999). In reviewing the trial court's evaluation of the evidence, we

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<sup>1</sup>Appellant's husband is not appealing the decision of the trial court to terminate his parental rights to A.G.

will not reverse unless the court clearly erred in finding that the relevant facts were established by clear and convincing evidence. *Johnson v. Ark. Dep't of Human Servs.*, 78 Ark. App. 112, 82 S.W.3d 183 (2002). A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been made. *Brewer v. Ark. Dep't of Human Servs.*, 71 Ark. App. 364, 43 S.W.3d 196 (2001). We must give due regard to the opportunity of the trial court to judge the credibility of witnesses. *Johnson, supra*. Additionally, we have noted that in matters involving the welfare of young children, we will give great weight to the trial judge's personal observations. *Id.*

The intent of Ark. Code Ann. § 9-27-341 (a)(3) (Supp. 2005) is to provide permanency in a child's life in all instances in which returning the child to the family home is contrary to the child's health, safety, or welfare and the evidence demonstrates that a return to the home cannot be accomplished in a reasonable period of time as viewed from the child's perspective. An order forever terminating parental rights must be based upon clear and convincing evidence that the termination is in the best interests of the child, taking into consideration the likelihood that the child will be adopted and the potential harm caused by continuing contact with the parent. Ark. Code Ann. § 9-27-341(b)(3)(A). In addition to determining the best interests of the child, that court must find clear and convincing evidence that the circumstances exist that, according to the statute, justify terminating parental rights. *Johnson, supra*. Circumstances that may support the termination of parental rights are when the

juvenile has been adjudicated by the court to be dependent-neglected and has continued out of the custody of the parent for twelve (12) months and, despite a meaningful effort by the department to rehabilitate the parent and correct the conditions that caused removal, those conditions have not been remedied by the parent. Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(a).

Appellant argues that the trial court erred in determining that it was in A.G.'s best interest for her rights to be terminated because the grounds to terminate were not proven by clear and convincing evidence. We disagree. The trial court stated:

The Court finds it to be contrary to the child's best interests, health and safety, and welfare to return her to the parental care and custody of their (sic) parents and further finds that the Department of Health and Human Services has proven by clear and convincing evidence that: (a) It is in the juvenile's best interest to terminate the parental rights of the mother and father; (b) the minor child has resided outside the parental home of the parents in excess of one year, and despite a meaningful effort by the Department of Human Services to rehabilitate the home and correct the conditions which caused removal, those conditions have not been remedied by the parents.

When the termination hearing took place on September 13, 2005, A.G. had been out of appellant's custody since February 24, 2004; and despite the services provided to appellant (parenting classes, independent living classes, counseling, placement in residential program, and visitation) and A.G. (foster care and Kids First) the conditions which caused removal had not been remedied. Thus, the statutory requirements for the termination of parental rights under Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(a) (Supp. 2005) have been satisfied. Accordingly, we affirm.

Affirmed.

PITTMAN, C.J., and BIRD, J., agree.